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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/582,838	01/04/2001	Kazunori Kondo	53859USA2A.0	2568

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER

CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/582,838

Applicant(s)

KONDO ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Receipt of terminal disclaimer and response to non-final rejection filed 9-23-05 is acknowledged.

Claims 9-16 are pending in the instant application.

The following rejection of record has been maintained:

Claim Rejections - 35 USC § 102

Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,532,937 to Miller.

Miller discloses a sebum collecting means from the skin of a subject, wherein the means comprises an open-celled, microporous, hydrophobic polymeric film substrate for application to the skin (col. 2, lines 57-65 & col. 3, L 34-48). The microporous film of Miller is made of a nonwoven material such as a polyester, polyolefin etc., that have the capacity to absorb sebum (col. 3, L 51-68) and have a pore volume of 25% to 50% (within the range cited in claim 11) and a thickness of 0.01 mm to 0.05 mm (within the range cited in claim 11) (col. 4, lines 1-14). Miller discloses that the film is opaque or translucent before absorption and turns more translucent or transparent upon absorbing sebum (col. 4, L 1-14 and col.5, L 1-13). While Miller does not specify the void volume of the pores as claimed, the porous film disclosed by Miller has a pore size and film thickness in the same range as that claimed and accordingly, the claimed void volume and interstitial volume (a function of film thickness and void volume) is inherent to the film of Miller. Accordingly, instant claims are anticipated by Miller.

Claim Rejections - 35 USC § 103

Claims 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,532,937 to Miller in view of GB in view of GB 2061709 (submitted on PTO-1449).

Instant claims recite a liquid absorbing substance partially distributed on the surface of the porous stretched film. Miller does teach distribution of a liquid absorbing substance on the oil and fat absorbing stretched, porous film material.

GB teaches a cosmetic pad for cleaning the skin or removing make-up, comprising a core of flexible, liquid –sorbent material and a covering of a stretched material on the liquid-sorbent material (abstract, page 1, lines 30-40). GB teaches a method of cleaning skin or face or make-up, comprising applying water to the pad to cause the liquid-sorbent material to absorb water and wiping the said pad over a portion of the surface to be removed or cleaned. GB teaches that the sorbent material is covered with a stretched plastic material, where as instant claim recites that is distributed on the surface of the pad. However, GB teaches the liquid-sorbent material i.e., for cleaning or removing make-up and thus has the same function as that of the instant. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to choose to incorporate the sorbent material of GB into the porous film material or over the film of Miller because GB suggests that upon applying water a portion of the liquid sorbent material absorbs water and expels the material that cleanses the skin or the surface being cleaned. Therefore, a skilled artisan would have expected to remove sebum from the skin surface by the absorbing capacity

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of the microporous film (Miller) and also cleanse the skin from dirt or remove the make-up at the same time from the skin surface.

Response to Arguments

In response to the terminal disclaimer, the double patenting rejection over U.S. Patent No. 6,645,611 has been withdrawn.

Applicant's arguments filed 9-23-05 have been fully considered but they are not persuasive.

Applicants argue that Miller requires a microporous film that have voids with a pore diameter of less than 0.1 microns, whereas instant method relies on the use of a film with pores or voids from 0.2 to 5.0 microns. Applicants argue that the claimed invention is not taught or suggested by Miller. It is further argued that rapid change in transparency is a critical feature to the instant invention, as the change in the transparency indicates to the user that oil has been removed and immediately sections of the wipe have been filled with oil. Applicants' arguments are considered but not found persuasive because Miller discloses the void volume and film thickness that is within the claimed range and therefore the claimed interstitial volume is inherent to the porous films of Miller. With respect to the pore size, applicants refer to the preferred embodiment of Miller. However, the prior art teachings are not limited to preferred embodiments and instead should be considered as whole. Miller teaches the same porous film with the claimed void content and thickness and therefore it is examiner's

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position that the claimed void size and interstitial thickness are inherent to the composition of Miller.

Applicants argue that GB does remedy the deficiencies of Miller because the patent merely teaches a foam pad that is not a film. Applicants' arguments are not persuasive because the motivation to combine the references is for the liquid-sorbent material i.e., for cleaning or removing make-up and not for the stretched material itself. Both GB and Miller are directed to skin cleaning and make-up removal, analogous to that of Miller. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to incorporate the sorbent material of GB into the porous film material or over the film of Miller because GB suggests that upon applying water a portion of the liquid sorbent material absorbs water and expels the material that cleanses the skin or the surface being cleaned. Therefore, a skilled artisan would have expected to remove sebum from the skin surface by the absorbing capacity of the microporous film (Miller) and also cleanse the skin from dirt or remove the make-up at the same time from the skin surface.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

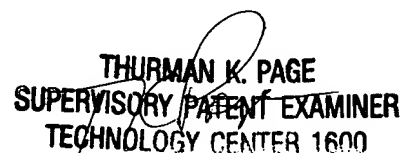
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala
Examiner
Art Unit 1615
November 30, 2005



THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600